



**MONTANA  
TEACHERS' RETIREMENT SYSTEM**

1500 E 6TH AVE  
PO BOX 200139  
HELENA MT 59620-0139  
www.trs.mt.gov  
406-444-3134  
1-866-600-4045

**TRS Office Use Only**

**TERMINATION PAY - IRREVOCABLE ELECTION FORM**

**MEMBER INFORMATION / CERTIFICATION**

First \_\_\_\_\_ Middle \_\_\_\_\_ Last \_\_\_\_\_ Suffix \_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Maiden Name

\_\_\_\_\_  
Date of Birth

X X X - X X -  \_\_\_\_\_  
Social Security Number

\_\_\_\_\_  
Mailing Address—Including City, State & Zip+4 Code (If unknown, use 5-digit Zip Code)

\_\_\_\_\_  
Area Code & Telephone Number

**By my signature below, I certify that:**

**I have read, understand, and will comply with the information and requirements provided on the back of this form.**

\_\_\_\_ I elect to use termination pay in the calculation of my benefits under Termination Pay [\_\_\_\_ Option 1] [\_\_\_\_ Option 2], and I hereby direct my employer, at the time of my termination of employment and retirement, to report the total amount of my termination pay to the Montana Teachers' Retirement System (TRS). I further direct my employer, if the effective date of this *Termination Pay Irrevocable Election Form* is at least 90 calendar days prior to the date of my termination of employment, to pick up and remit employee contributions on the total termination pay amount to TRS on a tax-deferred basis to the extent the contributions can be withheld from my termination pay. I will remit employee contributions in excess of the amount picked up by my employer to TRS by personal check. I understand that I may not revoke this election regarding the use of termination pay in the calculation of my retirement benefits.

**Member's Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**TO BE COMPLETED BY A NOTARY PUBLIC**

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; by name of person appearing before the Notary Public.

County of \_\_\_\_\_.

(SEAL)

\_\_\_\_\_  
Signature of Notary Public

\_\_\_\_\_  
Typed, Stamped or Printed Name of Notary

Notary Public for the State of: \_\_\_\_\_

Residing at: \_\_\_\_\_

*My commission expires:* \_\_\_\_\_

**EMPLOYER INFORMATION / ACKNOWLEDGEMENT**

\_\_\_\_\_  
Name of Employer

\_\_\_\_\_  
TRS Six Digit Employer Number

\_\_\_\_\_  
Mailing Address – Including City, State & Zip+4 Code (If unknown, use 5-digit Zip Code)

\_\_\_\_\_  
Area Code & Telephone Number

**By signing this form, the employer acknowledges the TRS member's (employee's) election to use termination pay in the calculation of his/her retirement benefits, and the employer's obligations to provide information and to remit employer and employee contributions to TRS in conformity with the information and requirements provided on the back of this form, and as otherwise directed by TRS.**

\_\_\_\_\_  
Employer Representative's Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Employer Representative's Signature

\_\_\_\_\_  
Date

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1992,  
ALTERNATIVE ACCESSIBLE FORMATS OF THIS DOCUMENT WILL BE PROVIDED UPON REQUEST.

**Requirement to Complete this Irrevocable Election Form to Use Termination Pay in the Calculation of Retirement Benefits.**

Pursuant to §19-20-716, MCA, a member of the Montana Teachers' Retirement System (TRS) may elect to include termination pay in the calculation of his/her retirement benefit and have employee contributions made on a pre-tax basis by making an irrevocable election as described on this form. A member's election is effective only after this election form has been completed, signed (and notarized) by the member; has been acknowledged by the member's employer; and has been submitted to TRS. It is the member's responsibility to ensure that this election form is timely completed and submitted to TRS in conformity with the member's wishes regarding the use of termination pay. **A member should carefully read all of the information provided below prior to completing this form, and should contact TRS with any questions.**

**Termination pay means** any form of bona fide vacation leave, sick leave, severance pay, amounts provided under a window or early retirement incentive plan, or other payments contingent on the employee terminating employment that are paid at the time of termination and retirement. Termination pay does not include:

- amounts that are not wages under section 3121 of the Internal Revenue Code (IRC)
- amounts payable from a deferred compensation plan under section 457(f) of the IRC
- amounts that would otherwise be termination pay but
  - are not actually paid to the member at the time of termination and retirement; or
  - for which the member was allowed to elect to receive the amount in a manner that does not constitute termination pay (for example, an option to receive health insurance premiums in lieu of a cash payment).

**Contributions Required on Termination Pay.** If a member elects to use termination pay in the calculation of his/her retirement benefit, the member and the employer will be required to make contributions to TRS sufficient to actuarially fund the additional retirement benefit, as described for each termination pay option the member may elect.

**Termination Pay Option 1** – The total amount of the termination pay received by the member must be used in calculating the member's retirement benefit by adding the total termination pay to the compensation used to calculate the member's average final compensation (AFC). This option provides the largest monthly benefit increase and will have the highest cost for both the member and the employer. The required employer and employee contributions will be actuarially determined. In many cases, the member's required contributions on the termination pay will be greater than the termination pay amount.

**Termination Pay Option 2** – The total amount of the termination pay received by the member must be used in calculating the member's retirement benefit by dividing the total amount of termination pay by the member's total number of years of creditable service to determine an annual amount of termination pay. The annual amount of termination pay is added to each year of compensation used to calculate the member's AFC. This option provides a smaller monthly benefit increase than Option 1. Employer and employee contributions will be calculated based on the total statutory employer (including state supplemental) and member contribution rates then in effect.

**Employee Contributions Must be Made by Employer Pick-up (with pre-tax dollars) / Requirements.** If a member's irrevocable election to use termination pay in the calculation of his/her retirement benefit is effective at least 90 calendar days before the member's date of termination of employment, the member's contributions due on termination pay must be made by employer pick-up of the employee contributions, to the extent available, and subject to all of the following requirements:

- The member's irrevocable election must be effective **at least 90 calendar days before the member's date of termination of employment.**
- The total (gross) amount of termination pay must be reported to TRS and must be used to calculate the member's retirement benefit.
- The employee contributions, although designated as employee contributions, must be picked-up by the employer (withheld from the termination pay payable to the member and paid directly to TRS by the employer) in lieu of contributions by the member. The member may not directly receive any of the amount required to be withheld from the termination pay.
- The picked up employee contributions must be deducted by the employer from termination pay that constitutes wages for purposes of section 3121 of the IRC and can be included in the member's gross income for federal tax purposes and must be paid from the same source as compensation is paid.
- The employer may pick-up employee contributions only for termination pay paid after the effective date of this irrevocable election, and the member may not prepay any portion of the contributions.
- Required employee contributions in excess of the amount of termination pay available to be picked up may not be picked up by the employer and are subject to the limitations of section 415 of the IRC. The member must pay employee contributions in excess of the picked up amount to TRS as a lump sum payment by personal check. (Termination pay is subject to employer withholding for Social Security and Medicare; the termination pay amount available to be picked up as pre-tax contributions will be net of the required withholding.)

**When Employee Contributions Cannot be Made with Pre-Tax Dollars.** Employee contributions cannot be picked-up by the employer if a member's irrevocable election to use termination pay is effective less than 90 calendar days prior to the member's date of termination of employment. The member must pay the employee contributions to TRS as a lump sum payment by personal check.